

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARKEL AMERICAN INSURANCE  
COMPANY,

Plaintiff,

v.

JEANNE STOUT, JEFF STOUT, ROBERT  
GINGRAS, JR., and DOES 1 through 20,  
inclusive,

Defendants.

No. C 11-02477 WHA

**ORDER GRANTING MOTION  
FOR DEFAULT JUDGMENT IN  
ACCORDANCE WITH REPORT  
AND RECOMMENDATION**

Defendant Robert Gingras, Jr., was injured while driving an ATV owned by defendants Jeanne and Jeff Stout. Defendant Gingras sued the Stouts for negligence. The Stouts held a motorcycle insurance policy for their ATV, issued by plaintiff.

Plaintiff subsequently filed this action on May 20, 2011, seeking a declaratory judgment that, pursuant to the policy's terms, it does not owe a duty to the Stouts to defend or indemnify them in the Gingras action. Plaintiff filed a Request for Waiver of Service, signed by defendant Gingras' counsel (Dkt. No. 14). Defendant Gingras has not appeared or otherwise participated in this action. Default was entered by the clerk on December 14, 2011 (Dkt. No. 27).

Plaintiff now moves for a judgment of default. A hearing was held before Magistrate Judge Donna M. Ryu on April 26, 2012, at which defendant Gingras failed to appear.

1 In February, 2012, plaintiff and the Stouts stipulated to entry of default judgment against  
2 the Stouts (Dkt. No. 37). Since defendant Gingras did not consent to his jurisdiction,  
3 Magistrate Judge Ryu filed a report and recommendation presenting her recommendation that  
4 default judgment be entered against defendant Gingras and that the case be reassigned for action  
5 thereon (Dkt. No. 44).

6 There has been no response to the report. The undersigned has thoroughly reviewed the  
7 report and recommendation of Magistrate Judge Ryu and hereby adopts the recommendations  
8 therein. For the reasons stated in the report and recommendation, plaintiff's motion for  
9 default judgment against defendant Gingras is **GRANTED**. In addition, because the parties  
10 have so stipulated, plaintiff's motion for default judgment against defendants the Stouts is  
11 also **GRANTED**. Judgment will be entered in favor of plaintiff and against all defendants for  
12 declaratory relief. Plaintiff shall have no duty to afford a defense or indemnify defendants  
13 Jeanne Stout and Jeff Stout under the motorcycle insurance policy No. MOR00000080036,  
14 with respect to the lawsuit filed by defendant Robert Gingras, Jr., in the Superior Court of the  
15 State of California, Sonoma County, *Gingras v. Polaris Indus., Inc.*, No. SCU 248756 (Cal.  
16 Super. Ct. filed Dec. 7, 2010).

17  
18 **IT IS SO ORDERED.**

19  
20 Dated: May 15, 2012.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE